

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
SEPTEMBER 16, 2003
7:00 P.M.**

ROLLCALL Answering rollcall were Members Housh, Hovland, Masica and Mayor Maetzold. Member Kelly entered the meeting at 7:10 P.M.

CONSENT AGENDA ITEMS APPROVED Motion made by Member Masica and seconded by Member Housh approving the Council Consent Agenda as presented with the exception of Agenda Item III.C. Emergency Well Repair – Well No. 11, and Agenda Item IV.D. Electrical Change Orders for City Hall.

Rollcall:

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

***MINUTES OF THE REGULAR MEETING OF SEPTEMBER 2, 2003, APPROVED** Motion made by Member Masica and seconded by Member Housh, approving the Minutes of the Regular Meeting of the Edina City Council for September 2, 2003.

Motion carried on rollcall vote – four ayes.

RESOLUTION NO. 2003-62 - APPROVING PRELIMINARY PLAT FOR TWO LOT SUBDIVISION - JAMES W. JONES (5205 DUNCRAIG AVENUE) Affidavits of Notice were presented, approved and ordered placed on file.

Presentation by Planner:

Planner Larsen stated the City received a subdivision request from James Jones at 5205 Duncraig Road. He explained the subject property was developed with a single dwelling located on the southerly portion of the lot. Mr. Larsen said much of the site had slopes exceeding eighteen percent. The 500-Foot Neighborhood showed the following lot sizes compared to the proposed subdivision:

<u>500-Foot Neighborhood</u>			
	<u>Lot Width</u>	<u>Lot Depth</u>	<u>Lot Area</u>
	120 Feet	168 Feet	18,215 SF
Lot 1	121 Feet	182 Feet	24,350 SF
Lot 2	121 Feet	243 Feet	25,969 SF

Member Hovland asked if the proposed Preliminary Plat reflected the adjustment between the two new lots as suggested by the Planning Commission. Mr. Larsen noted the proposed subdivision needed no variances and the proponent had adjusted the proposed lots based upon the Planning Commission's recommendation.

Member Housh commented that it appeared one lot would have a significant area that would be un-buildable. Mr. Larsen replied that this was true and the recommendation would be to build a home as close to the street as possible to minimize any impact upon the slope.

No one appeared to comment.

Motion made by Member Masica and seconded by Member Hovland to close the public hearing.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

Member Masica introduced the following resolution and moved its adoption:

**RESOLUTION NO. 2003-62
APPROVING JONES ADDITION
PRELIMINARY PLAT**

BE IT RESOLVED by the City Council of the City of Edina, Minnesota, that that certain plat entitled, "JONES ADDITION", platted by James Jones, and presented at the regular meeting of the City Council on September 16, 2003, be and is hereby granted preliminary plat approval with two conditions: Final Plat approval and Subdivision Dedication.

Passed and adopted this 16th day of September 2003.

Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

PRELIMINARY PLAT FOR TWO LOT SUBDIVISION - BRUCE AND SANDY NELSON (5905 LEE VALLEY ROAD) DENIED Affidavits of Notice were presented, approved and ordered placed on file.

Presentation by Planner:

Planner Larsen noted the proposed subdivision was part of a proposed subdivision that had been considered by the City in 2002. The subject property and the adjacent lot with frontage on Shannon Drive had been considered for a proposed five-lot subdivision. Mr. Larsen said that five-lot proposal was withdrawn and replaced with a Lot Division that reconfigured the two lots. He added the proponents were now proposing to subdivide their property to create an additional new lot.

Mr. Larsen said the proposed two-lot subdivision would create a classic neck lot condition with Lot 2 gaining street access via a 210-foot long narrow strip of land. He pointed out the City's Code requires lot width to be measured at a point fifty feet back from the front property line to discourage the creation of neck lots.

Mr. Larsen reviewed the 500-Foot Neighborhood showing the following lot sizes compared to the proposed subdivision:

<u>500-Foot Neighborhood</u>			
	<u>Lot Width</u>	<u>Lot Depth</u>	<u>Lot Area</u>
	120 Feet	175 Feet	21,820 SF
Lot 1	112 Feet	217 Feet	28,710 SF
Lot 2	30 Feet	293 Feet	50,401 SF

Mr. Larsen stated the Planning Commission at their August 27, 2003, meeting, reviewed the proposed subdivision and recommended denial of the request.

Member Masica asked what method was in place to monitor the number of trees removed during building. Mr. Larsen explained the overall development would be asked the number of trees

planned for removal but during the construction process the number of trees removed would be monitored by the City's Building Department.

Member Housh asked if the lot approved last year was a neck lot. Mr. Larsen said the lot approved last year fronted on Shannon Drive so the "neck" onto Lee Valley was not part of the consideration. The lot was approved as configured to allow safer access to the Shannon Drive property.

Member Hovland acknowledged correspondence from Anne and John Cronin of 7308 Claredon, reporting the large amount of silt and material that has eroded onto the Cronin's property during the construction on the Shannon Drive property. He expressed concern over this problem and the ineffectiveness of the silt fencing being used.

Mayor Maetzold asked whether neck lots were allowed or discouraged by the City's subdivision code. Mr. Larsen explained the City's subdivision regulations had been drafted to discourage any attempts to plat neck lots.

Bruce Nelson, owner of property, stated they had a very large lot; almost two acres and they were trying to split the lot in such a way that would allow the building of two houses. Mr. Nelson said for decades two houses had been in place on the lots. He stated that the only obstacle he saw was the neck lot technicality. Mr. Nelson urged the Council to consider two things: 1) the two owners (Nelson and the owner of the property fronting Shannon Drive) created the private driveway which they felt was superior to two driveways. The former access to the Shannon Drive was a very dangerous blind street; and 2) the proponents felt aesthetically the shared driveway would be the best alternative. Mr. Nelson said he could create a public road and be able to meet all the requirements of the City's code, but he felt that was not the best idea and therefore requested approval of the shared driveway. Mr. Nelson said in his opinion there had been precedent in the City with many other neck lots previously approved.

Council discussed the location and development of neck lots as approved in the past. Mr. Larsen stated that there had been lots approved in the past, but that it was found to be bad planning so when the zoning ordinance currently in affect was adopted, neck lots were discouraged. Discouraging neck lots has been the common practice in Edina for many years. The question was raised whether or not this lot experienced the same safety hazard as the abutting lot fronting on Shannon Drive that would give a reason for creating a neck lot. Mr. Larsen stated there was no reason to create a neck lot in this situation and reiterated that the Shannon lot was not a neck lot technically because it had frontage on Shannon that met subdivision requirements. He said the driveway was allowed because it afforded safer access to the lot.

Eric Seashore, McCombs Frank Roos Associates, Inc., engineer for Bruce and Sandy Nelson, showed graphics depicting the current configuration with the sixty-foot cross easement in existence and the proposed drive. Mr. Seashore stated that two years ago two homes existed on the property, one in very poor condition. He stated both homes have been removed by Mr. Nelson. Mr. Seashore then used a graphic to illustrate the proposed subdivision and the home on the adjacent lot currently under construction pointing out the shared driveway that crosses through the two thirty foot strips the owners have covered under cross easements. Mr. Seashore also showed a possible configuration of the proposed subdivision with a 50-foot right-of-way and 100-foot cul de sac. He stated the proponents felt the shared driveway was a much better alternative than building a public street.

Public Comment:

John Cronin, 7308 Claredon Drive, said the subject property was very steep and subject to erosion. He showed pictures of his property where over a foot of silt material has accumulated since the construction began on the lot adjacent to the Lee Valley property. Mr. Cronin noted that while the lot under construction fronts onto Shannon Drive it uses as a driveway the "neck" of proposed Lot 2. Mr. Cronin stated that before the mass grading on the property proposed for subdivision and lot under construction, drainage used to run down the old asphalt driveway. After the grading and during the construction he reported that a large portion of the drainage now runs through the new lot with the home under construction, across the proposed lot, across Mr. Cronin's lot and an adjacent lot before spilling onto Shannon Drive. He said that since the grading, Shannon Drive has had to be cleaned twice during the summer to remove siltation. The worst siltation of his property resulted in a layer of mud and sand one to two feet deep along the back of his property. Mr. Cronin said any further development would only exacerbate this situation and cause who knew how much damage to his property. He showed pictures of his backyard with the silt and mud covering his property. Since the proposed subdivision would require a variance, Mr. Cronin urged the Council to deny the subdivision because of a lack of hardship.

Phyllis Elsing, 7202 Shannon Drive, stated they also have some run-off although not as much as the Cronin's. Ms. Elsing added that the driveway "neck" to be shared by the two new lots and the lot which received approval last year, and currently under construction, had been installed partially on her property when she was out of town. Ms. Elsing expressed concern over snow removal stating she did not want all that snow pushed onto her property. She asked the Planning Commission's recommendation for denial of the subdivision be followed.

Bruce Nelson, proponent, stated the problems that have been experienced were, in his opinion, a separate issue. He said once the trees were removed to allow the construction the neighbors began experiencing some run-off. Mr. Nelson stated he believed that two properly designed lots could improve the drainage issue.

John Cronin, 7308 Claredon, said he believed that adding two more homes would further exacerbate the drainage siltation he has experienced and urged the Council to follow the Planning Commission recommendation.

Member Hovland said he remembered this area had been reviewed exhaustively when the five-lot subdivision was proposed. He stated he could not support the requested subdivision because of the neck lot and potential for drainage problems to surrounding properties.

Members Housh and Masica both voiced their agreement with Member Hovland. Member Kelly stated he agreed and pointed out that the subdivision required a variance, which was in his view a problem.

Member Hovland made a motion, seconded by Member Housh to close the public hearing.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

Member Hovland made a motion denying the Preliminary Plat Approval request for a two-lot subdivision at 5905 Lee Valley Road. Member Masica seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

RESOLUTION NO. 2003-64 - APPROVING CONDITIONAL USE PERMIT FOR PARKING LOT EXPANSION - CHAPEL HILLS UNITED CHURCH OF CHRIST (6512 VERNON AVENUE) Affidavits of Notice were presented, approved and ordered placed on file.

Presentation by Planner:

Planner Larsen explained the Chapels Hills United Church of Christ requested a Conditional Use Permit allowing them to add 16 new parking spaces in the drive aisle in front of the church. He noted the City's zoning regulation requires a Conditional Use Permit for any addition to either a building or parking lot. Mr. Larsen said the Planning Commission reviewed the CUP request and recommended Council grant the Conditional Use Permit as requested, conditioned upon the church re-striping the entire parking lot.

No one appeared to comment.

Motion made by Member Masica and seconded by Member Housh to close the public hearing.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

Member Housh introduced the following resolution and moved its adoption:

**RESOLUTION NO. 2003-64
GRANTING A
CONDITIONAL USE PERMIT TO
CHAPEL HILLS UNITED CHURCH OF CHRIST
6512 VERNON AVENUE**

WHEREAS, the procedural requirements of Code Section 850 (the Zoning Ordinance) have been met; and

WHEREAS, it has been determined that the Findings as required by Code Section No. 850.04 Subd. 4 have been satisfied:

NOW, THEREFORE, BE IT RESOLVED that the Edina City Council hereby grants a Conditional Use Permit to Chapel Hills United Church of Christ, 6512 Vernon Avenue, to allow the addition of sixteen new parking spaces conditioned upon the Church re-striping their entire parking lot.

Passed and adopted this 16th day of September 2003. Member Housh seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

ORDINANCE NO. 2003-11 AMENDING ZONING ORDINANCE ALLOWING RELIGIOUS INSTITUTIONS IN THE PID (PLANNED INDUSTRIAL DISTRICT) AND RESOLUTION NO. 2003-65 APPROVING CONDITIONAL USE PERMIT FOR FELLOWSHIP OF KINGS CHURCH (7300 BUSH LAKE ROAD) Affidavits of Notice were presented, approved and ordered placed on file. Manager Hughes suggested that the Council hear testimony on both the Ordinance amendment and Conditional Use Permit since the two items were connected. However, he stated the Council would need to take action separately on the items.

Presentation by Planner:

Planner Larsen explained that Fellowship of Kings Church has requested a rezoning or other ordinance amendment necessary to allow them to use the building at 7300 Bush Lake Road as a church. Mr. Larsen noted that Edina's current regulations only allow churches in R-1 Single Family Residential Districts. He stated rezoning the subject property would be a spot zoning since

all surrounding property was zoned industrial. Mr. Larsen said “spot rezonings” were considered to be illegal so another approach would be to amend the City’s regulations to allow churches as a conditional use in the industrial district. This way if the church were to leave the site, it would revert back to its underlying industrial zoning. Mr. Larsen said staff believed that churches could be complimentary uses with industrial businesses since churches’ peak operating times would typically occur when the businesses were not operating. Mr. Larsen reported that the Planning Commission has made a recommendation that the City Council consider an amendment to the zoning ordinance allowing churches as a “Conditional Use” in the Industrial District. He added if the Council was to adopt such an ordinance he would recommend they make it effective immediately, waiving second reading so that they may also consider the Fellowship of the King Church’s request for a conditional use permit.

Mr. Larsen stated that churches have historically been treated as a neighborhood based use. Typically, these churches have been modest in size. He noted that more recently some churches have developed a more regional character. Regional churches can be quite large and have activities throughout the week. Parking and traffic impact on adjacent neighborhoods have in some cases been a source of friction between the church and its neighbors. Mr. Larsen said the proposed church contained sanctuary seating for almost 1,000 and ample space for concurrent activities. He said the Sunday parking demand would likely be between 300-400 spaces. Mr. Larsen concluded stating that since most church activities would occur outside the rush hour there should be no impact on peak hour congestion.

Mr. Larsen briefly gave a zoning compliance review of the request based upon amended zoning ordinance. He said that in addition to the former tennis club site, the proposal included a strip of land west of the building adjacent to the railroad property.

Mr. Larsen said the building would need a seven-foot building height variance, a five-foot setback variance from the parking lot and also requires parking variance. The proposed sanctuary would seat 990 requiring approximately 330 parking spaces on site. The church’s plan provided 295 spaces, however, they have proposed to lease an additional 175 spaces from surrounding businesses. Mr. Larsen acknowledged that the City’s zoning ordinance did not recognize parking separated from the principal use by a street, but noted this would be a practical solution. He stated the plan met all other ordinance requirements. Mr. Larsen said he would let the proponent detail their plans, but that the only addition to the building would be a new covered entrance that met all setbacks. Mr. Larsen said the Planning Commission has recommended the Council consider adopting the proposed zoning ordinance amendment and to grant a conditional use permit to the Fellowship of the Kings Church with two conditions: 1) executed leases for a minimum of 150 off-site parking spaces; and 2) Conditional Use Permit expires when leases terminate.

Member Housh asked why the Planning Commission recommended no day care or school be allowed if the church were to locate within an industrial zone. Mr. Larsen replied because of concern over safety and traffic congestion.

Member Masica asked if the property owned and leased by the church would become tax-exempt if approved. Attorney Gilligan stated the only property that would become tax-exempt would be that property owned by the church, not the leased property.

Member Hovland asked if there were any argument for not granting the requested conditional use permit and whether this would set precedent. Mr. Larsen said the only argument for not allowing the conditional use permit would be if the use as proposed would not be compatible with the

surrounding property. He said that churches used to serve neighborhoods, but now many churches serve regions. Mr. Larsen said that the Fellowship of the King's proposal was in his opinion compatible with the industrial nature of the area since their time of peak use would be at a different time than the peak use of the surrounding properties. He added that the precedent set would be to allow organizations to bring requests for conditional uses. Mr. Larsen said that Bloomington, Eden Prairie and Minnetonka have been polled and all allow churches as conditional uses in their industrial districts. Mr. Gilligan added that the City's zoning regulations state the proponent must demonstrate their proposal will have no detrimental affect.

Proponent:

Tim Peterson stated he was the Senior Pastor of Fellowship of the Kings Church. Rev. Peterson stated this was a church plant from the parent church in Owatonna that began eighteen months ago with three couples but now has a current membership of over 400. He said they were an Evangelical Church focusing on marketplace leaders. Rev. Peterson stated Fellowship of the King held services on Friday evenings and would not be holding activities in their facilities during the rest of the week.

Mayor Maetzold asked what time services were held on Friday evenings. Rev. Peterson responded that services began about 8:00 p.m. until 10:30 p.m. so they would be at the site from about 7:00 p.m. until 11:30 or so.

Dennis Batty, Architect, 22770 Imperial Avenue North, Forest Lake, MN, gave an overview of the site development. He explained that the building formerly used as Northwest Racquet Club would remain intact with the only modification being a more traditional church entrance added to the front. The outdoor tennis courts will be removed so that area may be used for parking. Mr. Batty said the church has secured two pieces of railroad property, which affords them an additional 35 parking spaces on site. He added that they have agreements with Gassen Company and Centerpulse, both companies directly across from the church for off-site parking. Mr. Batty reviewed the interior changes intended for the building showing where the 990 seat sanctuary, various classrooms, nursery, reception and youth areas would be built.

Tara Batty, 10604 32nd Avenue North, Plymouth, stated she was a member of the congregation and wanted to outline what Fellowship of the King would bring to the community. Ms. Batty explained that most of the 400 member families were business leaders and owners. These people bring a wealth of knowledge and skills into the community. The church would also be a resource for the community.

Member Housh said he thought this was an interesting use for the property, especially in light of the issues facing the growth of churches in residential areas. Mayor Maetzold said this use of the building seemed to be a good alternative.

Member Masica asked for a review of the required variance for the church to obtain a conditional use permit. Mr. Larsen explained they would need a building setback variance and a parking setback variance. He added the parking setback variance allows a safer traffic flow. Member Masica said she agreed with Member Housh and Mayor Maetzold that this seemed a compatible use for the property.

Member Hovland asked if there were any issues that could complicate this issue. He expressed some unease about the change to the zoning ordinance. Mr. Gilligan pointed out that other communities have a history of already utilizing this type of conditional use without detriment.

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Mr. Larsen added that making churches a conditional use still allowed the City to place conditions on the use.

Member Kelly stated while he could support amending the zoning ordinance he would not support the request for a conditional use. He stated he felt the site would not prove to be a hardship for the right use. Member Kelly stated he could not approve any use requiring multiple variances and having inadequate parking.

The Council briefly discussed the parking leases and their similarity to a proof of parking, whether or not parking spaces should be required to be within a limited number of feet from the site. Consensus was to accept the leases as proffered by the church.

Member Kelly reiterated that he could not support the conditional use for the property because he felt the use proposed was just too large for the site.

Member Housh made a motion to grant first reading and waive second reading to Ordinance No. 2003-11 as follows:

**ORDINANCE NO. 2003-11
AN ORDINANCE AMENDING THE ZONING
ORDINANCE (NO. 850) BY ADDING
RELIGIOUS INSTITUTIONS
AS A CONDITIONAL USE IN THE
PLANNED INDUSTRIAL DISTRICT**

THE CITY COUNCIL OF EDINA, MINNESOTA, ORDAINS:

Section 1. Subsection 850.17 of Section 850 of the Edina City Code is amended by adding a new Subdivision 2 as follows:

"Subd. 2 Conditional Uses.

A. Religious institutions, including churches, synagogues, chapels, temples, and mosques."

Section 2. Subsection "850.17 Subd. 2 Accessory Uses" is hereby re-numbered Subsection "850.17 Subd. 3 Accessory Uses."

Section 3. Effective Date: This Ordinance shall be in full force and effect upon passage.

Adopted this 16th day of September 2003.

First Reading: September 16, 2003

Second Reading: Waived

Published: September 25, 2003

Attest

Debra A. Mangen, City Clerk

Dennis F. Maetzold, Mayor

Member Masica seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

Member Housh made a motion introducing the following resolution and moving its adoption:

**RESOLUTION NO. 2003-65
GRANTING A
CONDITIONAL USE PERMIT TO
FELLOWSHIP OF THE KINGS CHURCH
7300 BUSH LAKE ROAD**

WHEREAS, the procedural requirements of Code Section 850 (the Zoning Ordinance) have been met; and

WHEREAS, it has been determined that the Findings as required by Code Section No. 850.04 Subd. 4 have been satisfied:

NOW, THEREFORE, BE IT RESOLVED that the Edina City Council hereby grants a Conditional Use Permit to Fellowship of the Kings Church, 7300 Bush Lake Road, to allow the Conditional Use of the building as a church with the following conditions:

1. No day care or nursery school shall be operated at this site;
2. Executed leases for a minimum of 150 off-site parking spaces; and
3. Conditional Use Permit shall expire when parking leases terminate.

Passed and adopted this 16th day of September 2003. Member Masica seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Masica, Maetzold

Nay: Kelly

Motion carried.

AWARD OF BID FOR INTERIOR AND EXTERIOR SIGNAGE FOR CITY HALL/POLICE FACILITY

Mr. Anderson explained the base bid covers signage on the exterior walls and the interior of the building for City Hall/Police Facility. Staff recommends three alternates as follows:

- 1) Electronic Sign Replacing the Existing Community Bulletin Board
 - a. Would allow input from inside City Hall.
 - b. Alternate costs of \$31,889 would come from the construction contingency budget
- 2) Footings for Sign
- 3) Traffic Regulator Signage on the site
 - a. Alternate costs of \$2,048

Mr. Anderson indicated if the Council did not wish to approve purchase of an electronic sign, the exterior sign would be re-bid for a new manual signboard similar to what we have today at an approximate cost of \$12,000. The consultant's estimate for both the base bid and alternates would be \$75,000. Staff recommends approving the interior and exterior signage for City Hall/Police Department to Serigraphics Sign Systems at \$58,284.00.

Member Kelly made a motion approving the award of the base bid for interior and exterior signage for the City Hall/Police Facility and alternate for the electronic signage and traffic control signage to recommended low bidder, Serigraphics Sign Systems at \$58,284.00. Member Housh seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

***BID AWARDED FOR BRAEMAR GOLF DOME FURNACE REPLACEMENT** Motion made by Member Masica and seconded by Member Housh for award of bid for Braemar Golf Dome Furnace Replacement to recommended low bidder, Yeadon Fabric Domes, Inc., at \$53,974.00.

Motion carried on rollcall vote - four ayes.

AWARD OF BID APPROVED FOR EMERGENCY WELL REPAIR – WELL NO. 11 Member Masica removed the bid award for emergency well repair of Well No. 11 for further information. She inquired what the original cost was for repair of Well No. 11. Mr. Houle said he did not know but estimated the cost between \$30,000 - \$50,000. Ms. Masica asked if the City inspected the repair or assumes the work has been done correctly. Mr. Houle indicated that staff always inspects projects. Ms. Masica inquired if the work done by the now defunct company in 1998 was under warranty. Mr. Houle said typically the work was under a one-year warranty.

Member Masica made a motion approving the award of bid for emergency well repair for Well No. 11, located at 4500 West 76th Street to sole bidder, Bergerson-Caswell, Inc., at \$20,637.50. Member Kelly seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold
Motion carried.

***BID AWARDED FOR SALT FOR SNOW AND ICE CONTROL** Motion made by Member Masica and seconded by Member Housh for award of bid for salt for snow and ice control to Cargill Salt, Inc., under State Contract #430986, at \$28.40 per ton delivered with an estimated expenditure per season of approximately \$60,000 to \$90,000.

Motion carried on rollcall vote – four ayes.

Member Masica exited the Council Chambers.

AWARD OF BID FOR TRUCK MOUNTED – STREET PAVEMENT STRIPER CONTRACT NO. 03-09PW Mr. Hughes explained the award of bid for the truck mounted street pavement striping was slightly over the estimated Capital Improvement Plan (CIP) budget. Looking at the CIP budget as a whole, there have been more under-budget items that have not been communicated than over-budget items. Staff recommended approval.

Member Kelly made a motion approving the truck mounted street pavement striping (Contract No. 03-09PW), to recommended low bidder, Lafarge Road Marking at \$123,000.00. Member Hovland seconded the motion.

Ayes: Housh, Hovland, Kelly, Maetzold
Motion carried.

***BID AWARDED FOR SCADA (SUPERVISORY CONTROL AND DATA ACQUISITION) HARDWARE FOR UTILITY DATA COLLECTION SYSTEM, IMP. NOS. WM-414, SS-404 AND STS-284, CONTRACT NO. 03-8PW** Motion made by Member Masica and seconded by Member Housh for award of bid for Contract No. 03-8 PW, SCADA Hardware for Utility Data Collection System, Improvement Nos. WM-414, SS-404 and STS-284, to recommended low bidder, Control Assemblies Company at \$1,404,491.00.

Motion carried on rollcall vote – four ayes.

AWARD OF BID FOR ONE ARTICULATED LOADER FOR PUBLIC WORKS (STATE CONTRACT #430487) Mr. Hughes explained the award of bid for one articulated loader for Public Works was slightly over the estimated Capital Improvement Plan (CIP) budget. Looking at the CIP budget as a whole, there have been more under-budget items that have not been communicated than over-budget items. Staff recommended approval.

Member Kelly made a motion approving the award of bid for one articulated loader to St. Joseph Equipment Company under State Contract #430487 at \$152,863.71. Member Hovland seconded the motion.

Ayes: Housh, Hovland, Kelly, Maetzold
Motion carried.

Member Masica re-entered the Council Chambers.

NEW ON-SALE INTOXICATING AND SUNDAY SALE LIQUOR LICENSE FOR IKASU SUSHI BAR & LOUNGE (7495 FRANCE AVENUE SOUTH) APPROVED Mr. Hughes explained that an application had been received for an on-sale intoxicating and Sunday sale liquor license for the Ikasu Sushi Bar and Lounge at 7495 France Avenue South. The business will occupy the space recently vacated by Two Guys From Italy. The Administration, Police, Planning and Health Departments have reviewed the application and have found it to be in order and recommended approving the on-sale intoxicating and Sunday sale liquor licenses to Yang Companies, LLC/DBA Ikasu Sushi Bar and Lounge at 7495 France Avenue South for a period beginning September 17, 2003, and ending March 31, 2004.

Member Hovland made a motion closing the public hearing, seconded by Member Housh.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold
Motion carried.

Member Hovland made a motion approving the on-sale intoxicating and Sunday sale liquor license for Ikasu Sushi Bar and Lounge at 7495 France Avenue South for the period of September 17, 2003, and ending on March 31, 2004. Member Housh seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold
Motion carried.

DANCE PERMIT APPROVED FOR IKASU SUSHI BAR & LOUNGE (7495 FRANCE AVENUE SOUTH) Mr. Hughes said the Ikasu Sushi Bar & Lounge has made application for a dance permit on a conditional basis. Ikasu has requested the same permit as the previous tenant, Two Guys From Italy. An area would be provided for dancing on Thursday, Friday and Saturday nights from 10:00 P.M. to 1:00 A.M., with a disc jockey providing music. Mr. Hughes explained that the City Code states that the initial dance permit may not be issued for more than 30 days. The applicant may then re-apply for another permit for a longer time period. This was done to re-evaluate the circumstance of the operation. Mr. Hughes elaborated that Chief Siitari recommended issuance of the dance permit subject to the condition that security personnel must be approved by the Police Chief and must be on-duty during the hours of operation as listed on the permit.

Member Masica inquired whether there were Code restrictions on what size the dance floor could be. Mr. Hughes responded he did not think restrictions were in place in the City Code limiting the size of the dance floor. He explained in essence when the permit was issued, approval of the premises was granted. Ms. Masica said the 30-day permit was too weak. She suggested a six-month time period for re-evaluating the license renewal. Mr. Hughes explained the Code states the initial license period was for 30 days, however, the Council has discretion in issuing the renewal license for any period not to exceed one year.

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Yee Yang, 7666 Upper 24th Street North, Oakdale, MN, presented a depiction of the dance floor orientation and explained that the dance club would not be advertised nor be the main focus of the restaurant.

Member Hovland made a motion approving the dance permit for the Ikasu Sushi Bar and Lounge (7495 France Avenue South) for a period of 30 days as authorized by City Code 200.06. Member Housh seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold
Motion carried.

***RESOLUTION NO. 2003-66 SETTING HEARING DATE SET FOR SPECIAL ASSESSMENTS - OCTOBER 21, 2003** Motion made by Member Masica and seconded by Member Housh setting October 21, 2003, as hearing date for Special Assessments.

**RESOLUTION NO. 2003-66
RESOLUTION
SETTING PUBLIC HEARING DATE OF OCTOBER 21, 2003, FOR
SPECIAL ASSESSMENTS
TRAFFIC SIGNAL IMPROVEMENT NO. TS-27,
ROADWAY AND TRAFFIC SIGNAL IMPROVEMENT
NO. BA-318, TS-25, & TS-26
TREE REMOVAL IMPROVEMENT NO. 03-1**

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF EDINA, MINNESOTA:

- 1. A public hearing shall be held on the 21st day of October 2003, in the Council Chambers at City Hall at 7:00 P.M. to pass upon the proposed special assessments for the 2002-2003 construction season. All persons owning property affected by such improvements at such time and place will be given an opportunity to be heard with reference to such assessments.**
- 2. The City Clerk is hereby directed to cause a notice of hearing on the proposed assessments to be published in the Edina Sun-Current at least two weeks before the hearing and shall in the notice state the total cost of the improvements. The Clerk shall also cause mailed notice to be given to the owner of each parcel described in the assessment rolls not less than two weeks before the hearings.**

Adopted this 16th day of September 2003.

Motion carried on rollcall vote – four ayes.

ELECTRICAL CHANGE ORDERS FOR CITY HALL APPROVED Member Housh asked that the electrical change orders for City Hall be removed from the Consent Agenda for further information. He inquired what caused the electrical charges to exceed budget. Mr. Anderson noted that things have gone very well with the City Hall/Police Department project budget. He explained that about 60% of the change order relates to being in a fast design phase and, 1) we did not have a security consultant on board, 2) audio visual was included but a decision about cable TV had not been made, and 3) the data and wiring contractor was not included.

Member Housh made a motion authorizing staff to process change orders in excess of 10% for the electrical contract for City Hall/Police Department. Member Hovland seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold
Motion carried.

***TRAFFIC SAFETY STAFF REVIEW OF AUGUST 27, 2003, APPROVED** Motion made by Member Masica and seconded by Member Housh approving the Traffic Safety Staff Review of August 27, 2003, Section A, B and C.

Motion carried on rollcall vote – four ayes.

TRAFFIC SAFETY STAFF REVIEW OF JUNE 25, 2003, CONTINUED FROM JULY 15, 2003, COUNCIL MEETING, SECTION B.1, APPROVED Engineer Houle said this Traffic Safety Staff Review has been continued since last June 25, 2003, due to residents requesting to appear before the Council. Two requests were denied at the June 25, 2003, meeting:

SECTION B.1, STOP sign request for Lakeview Drive and St. Johns Avenue

- ❖ Requested to slow down traffic
- ❖ Two accidents in last 6 years (one north bound and west bound, one east bound and parked cars)
- ❖ No sidewalks
- ❖ Sight lines are good
- ❖ Traffic Data:

	<u>ADT</u>	<u>85% SPEED</u>
1. Lakeview Drive	486 vpd	28 – 29 mph
2. St. Johns Drive	< 200 vpd	
- ❖ Warrant Analysis (9 Policies)
 - No. 3 Absent engineering data – left uncontrolled
 - No. 4 5 or more right-angle accidents in a three-year period
 - No. 5 Sight Obstructions
 - No. 6 85% - 5 mph over speed limit
 - No. 7 ADT exceed 1000 vpd
 - No. 8 Should not be installed to control speed
 - No. 9 Should not be installed to control volume

Staff recommendation was to deny request on lack of warrants.

Member Housh inquired how many of the warrants needed to be met for a STOP sign to be installed. Mr. Houle said one.

Member Masica said requests for a STOP sign in this location had been requested in 1998 and 2000. She asked if the request came from the same resident. Mr. Houle said he did not know.

Dale Decker, 4507 Lakeview Drive, said all the streets on St. John's except Lakeview have STOP signs creating an odd perception of the intersection. He presented a petition signed by 92% of the neighbors requesting installation of the sign.

Katherine Reali, 4510 Lakeview Drive, explained if the STOP sign were approved, it would be placed on her lot. She stated her approval of the STOP sign being installed.

Tom Johnson, 4509 Lakeview Drive, said he seldom sees brake lights on Lakeview – traffic moves through at a fast speed.

Mayor Maetzold and Member Masica stated that a STOP sign should be installed on Lakeview Drive at St. John's Avenue.

Member Kelly said he does not believe installing a STOP sign was the answer – the answer was sidewalks. He wondered why the City has a Traffic Safety Committee, if their recommendations were not honored.

Member Housh explained if an analysis were done of the whole area with an alternative plan to STOP signs, he would support installing the STOP sign as requested.

Member Hovland said STOP signs have been tried on a temporary basis with a less than desirable outcome. He stated his willingness to try a STOP sign as requested.

Following a brief Council discussion, **Member Masica made a motion approving installation of STOP signs east and west on Lakeview Drive at St. John's Avenue.** Member Housh seconded the motion.

Ayes: Housh, Hovland, Masica, Maetzold

Nays: Kelly

Motion carried.

Mr. Hughes reminded the Council that Section B.2, of Traffic Safety Staff Review of June 25, 2003, request for a marked pedestrian crosswalk on Olinger Boulevard at Jeff Place was continued.

ATHLETIC FACILITIES STUDY AND RECOMMENDATIONS PRESENTED Director Keprios stated the Park Board completed a needs assessment analysis as directed by the Council that considered building and operating an indoor athletic field facility and additional gymnasiums. A Facilities Study Committee was established to complete the study and presented their findings and recommendations to the Park Board. The Park Board volunteers on the Committee consisted of Mike Damman, Andrew Finsness, George Klus and Karla Sitek. Park and Recreation staff members were Ed MacHolda, Assistant Director and Director Keprios.

After a four-month study, the Committee found there was a need for field space and at least four gymnasiums and made three recommendations:

1. Field space and gymnasiums should be built next to existing Edina public schools buildings; and
2. Funding needs to be in place to cover operating expenses before additional facilities are constructed; and
3. User groups should be required to raise funds to cover anticipated operating costs.

A dilemma exists with suggesting these facilities belong on school property because:

1. Voters recently turned down a City offered referendum that would have built gymnasiums on school property; and
2. The City and School District have different taxing boundaries, which became a significant issue in the failed referendum; and
3. The School District was not offering multiple additional gymnasiums or an indoor athletic field facility in their upcoming referendum.

Mr. Keprios stated the consensus of the committee was the City should not consider building and operating either an indoor athletic field facility or a complex of gymnasiums on City-owned property unless it clearly became an absolute last resort option. If that was the case, funding the operational expenses would remain the most significant issue to be resolved before constructing such facilities.

George Klus, Park Board Chair, reminded the Council there was a perception in the City that once residents pay taxes, they were entitled to subsidized programs regarding facility use.. He said he

believed the organizations and the public must be educated about the costs of operating facilities that have been requested.

No formal Council action was taken. The Council will revisit the issue in 2004.

***RESOLUTION NO. 2003-67 APPROVED ORDERING STREET LIGHT IMPROVEMENT NO. L-41, 4700, 4701, 4702 TOWNES ROAD** Motion made by Member Masica and seconded by Member Housh approving the following resolution:

**RESOLUTION NO. 2003-67
ORDERING DECORATIVE STREETLIGHT IMPROVEMENT
NO. L-41 - 4700, 4701, 4702 TOWNES ROAD**

WHEREAS, the Edina City Council on the July 8, 2003, received a petition from Peter G. and Melissa K. Opp, David O. and Mary J. Nelson, and David C. and Susan H. Graham, requesting the installation of a decorative streetlight between 4700, 4701 and 4702 Townes Road; and

WHEREAS, on July 31, 2003, Peter G. and Melissa K. Opp (4702 Townes Road) signed an agreement waiving their right to any public hearing on the requested improvement or public hearing on the final special assessment for the installation of said requested improvement; and

WHEREAS, on August 9, 2003, David O. and Mary J. Nelson (4701 Townes Road) signed an agreement waiving their right to any public hearing on the requested improvement or public hearing on the final special assessment for the installation of said requested improvement; and

WHEREAS, on August 20, 2003, David C. and Susan H. Graham (4700 Townes Road) signed an agreement waiving their right to any public hearing on the requested improvement or public hearing on the final special assessment for the installation of said requested improvement.

NOW, THEREFORE, BE IT RESOLVED, that Improvement No. L-41, installation of decorative streetlight at 4700, 4701 and 4702 Townes Road is ordered as proposed.

BE IT FURTHER RESOLVED that the City Engineer is hereby designated as the engineer for this improvement. The engineer shall cause plans and specifications to be prepared for the making of such improvement.

Passed and adopted this 16th day of September 2003.

Motion carried on rollcall vote – four ayes.

***CONFIRMATION OF CLAIMS PAID** Member Masica made a motion and Member Housh seconded the motion approving payment of the following claims as shown in detail on the Check Register dated September 4, 2003, and consisting of 32 pages: General Fund \$191,853.71; CDBG Fund \$40.00; Communications Fund \$714.23; Working Capital Fund \$1,307,517.36; Construction Fund \$63.84; Art Center Fund \$4,543.99; Aquatic Center Fund \$809.04; Golf Course Fund \$50,791.33; Ice Arena Fund \$2,060.43; Edinborough/Centennial Lakes Fund \$17,415.65; Liquor Fund \$170,083.16; Utility Fund \$54,230.08; Storm Sewer Fund \$10,995.49; PSTF Agency Fund \$465,572.00; TOTAL \$2,276,690.31; and for approval of payment of claims dated September 11, 2003, and consisting of 29 pages: General Fund \$122,910.33; Working Capital Fund \$22,550.67; Construction Fund \$62.50; Art Center Fund \$1,668.65; Aquatic Center Fund \$704.81; Golf Course Fund \$21,371.39; Ice Arena Fund \$4,373.96; Edinborough/ Centennial Lakes Fund \$13,875.18; Liquor Fund \$113,228.68; Utility Fund \$28,026.59; Storm Sewer Fund \$38.39; Recycling Fund \$31,218.70; TOTAL \$360,029.85.

Motion carried on rollcall vote – four ayes.

***PETITION RECEIVED FOR PAVING ALLEY ON HANKERSON AND WILLIAM AVENUES BETWEEN 51ST AND 52ND STREETS** Motion made by Member Masica and seconded by Member Housh acknowledging receipt of a petition requesting alley paving for Hankerson

Avenue between 51st Street and 52nd Street and for William Avenue between 51st Street and 52nd Street, and to refer the petition to the Engineering Department as to feasibility.

Motion carried on rollcall vote – four ayes.

*PETITION RECEIVED FOR SIDEWALK ON WEST FRONTAGE ROAD BETWEEN WINDSOR AND KENT Motion made by Member Masica and seconded by Member Housh acknowledging receipt of a petition requesting a sidewalk for the west frontage road between Windsor and Kent, and to refer the petition to the Engineering Department as to feasibility.

Motion carried on rollcall vote – four ayes.

RECEIPT OF “SAVVY” AWARD FOR ABOUT BUSINESS ACKNOWLEDGED Mr. Hughes indicated the City Communications Director, Jennifer Bennerotte was the recipient of the 3CMA “Savvy” award for *About Business*. Comments received about the publication were that it used a nice mix of color and fonts, has a personal feel, and personalized columns with a good approach to what could possibly be a dry topic.

SENATOR GEOFF MICHEL WILL ATTEND OCTOBER 7, 2003, COUNCIL MEETING Mr. Hughes noted that Senator Geoff Michel would attend the October 7, 2003, Council meeting to share an overview of the upcoming legislative session.

INFORMATION REGARDING THE EDINA SCHOOL DISTRICT REFERENDUM TO BE PRESENTED AT THE OCTOBER 7, 2003, COUNCIL MEETING Mr. Hughes indicated that a representative of the Edina School District would be in attendance at the October 7, 2003, regular Council meeting to present information regarding the referendum that will be on the ballot this fall.

There being no further business on the Council Agenda, Mayor Maetzold declared the meeting adjourned at 10:10 P.M.

City Clerk